178 No comparable institutions existed to inculcate in
596 youth a moral and ethical code that would serve as a common guide in the new society. Attempts by the Kuomintang leaders during the period of the National Government to restore filial piety along with a revised Confucian code to the service of an increasingly authoritarian-minded state met with failure among the nation's youth.[8]

IV. THE FAMILY UNDER COMMUNISM

A. The Marriage Law

596 In reconstructing Chinese society, the Communist
671 regime has undertaken to change the nature and
582 function of the family. The first step in this direction was the new Marriage Law promulgated in May 1950. It is one of the three legal pillars of the state. The other two -- the Labor Union Law and the Land Reform Law -- were announced at a later date but put into effect within a much shorter time and with greater immediate success.[9]

Eassentially, the outward provisions of the Marriage Law are comparable to the laws affecting marriage and the family in the civil and penal code announced by the National Government in 1930 and 1931.[10] The basic features of the new law are summed up in its first three articles, which provide for:

(1)...The abolition of arbitrary and compulsory marriage and the putting into effect of freedom of marriage for men and women.

(2)...The abolition of the feudal system

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8. Mary C. Wright, "From Revolution to Restoration: The Transformation of Kuomintang Ideology," Far Eastern Quarterly, Aug.1955, pp.515-32.

[9. and 10. next page]

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of marriage...based on the superiority of man over woman, and the putting into effect...of monogamy, and equal rights for both sexes.

(3)...The abolition of the feudal system of marriage which neglects the interests of the children, and the putting into effect of the New Democratic system of marriage, which protects the lawful interests of women and children.[11]

In propagandizing and implementing the Marriage Law, the regime struck hard against the old authoritarianism of the family head, child marriage, mistreatment of women and discrimination against them as inferior to men, and the mistreatment of children by parents. Wives, especially wives of arranged marriages, were encouraged to seek divorce from intolerant, unrepentent husbands. However, if husbands could be made to adopt the new attitude toward women, partners of arranged marriages were urged to remain united.

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To help traditionally-minded families

9. See comment by the American editors of Current Background, Hong Kong, American Consulate, 236, pp. 1-3; hereafter cited as C.B.: Unless editorial comment is indicated, as here, citations from Current Background refer to literal translations of material in Communist magazines and newspapers, and should be evaluated accordingly.

10. See comment of American editors of C.B., 136, p. 3.

11. "Document 7," C.B., 236, pp. 22-29.

596 should be the highest criterion governing our 668 actions toward our parents." [13]

An editorial in the People's Daily in March 1955 notes that remnant feudal ideologies still obstructed "the participation of women in Socialist construction and various political activities." The editorial then goes on to state that it is in order to promote the political and production zeal of women that their rights must be promoted and protected and the Marriage Law implemented.[14] Various comments on the Marriage Law inspired by the regime stress Lenin's dictum that sex relationships and family problems are not individual or small affairs but matters of great social, economic, and political significance.[15]

B. Implementation of the Marriage Law

•671 596 As the Nationalist government had made no attempt to put into effect the marriage and family provisions of its 1930-31 codes among the rural population, the spirit and provisions of the Marriage Law were new and alien to this great majority of the Chinese people. They were still bound to the traditional family and had not

12. See especially C.B., 273, pp.1-3; pp.4-14 and Survey of the China Mainland Press, Hong Kong American Consulate, 932, iv; hereafter cited as S.C.M.P. The same conditions apply to this source as to Current Background; see footnote 8.

13. SCMP, 973, p. 31.

14. Ibid., 106, p. 15.

15. See, for instance, C.B., p. 4; and SCMP, 104 pp. 30-31.

encountered the economic experience and education which had pushed the family in Western-influenced cities toward new types of social organization from the beginning of the twentieth century. Moreover, the new law offered no immediate or apparent economic benefits as had the Land Reform Law.

The result was apathy, when not open resistance, toward the reorientation of marriage and family practices among the farming population. These attitudes were as typical of most of the village cadres as of the rural people generally.[16] However, Liu Ching-fan's criticism in 1953 of the use of force by village cadres to achieve acceptance of the new Marriage Law's provisions indicates that up to that time violence accompanied this measure as it had other measures in Communist China.[17]

The regime became aware only slowly of the failure of the Marriage Law to take automatic effect. A preliminary investigation gave such cause for concern that a thorough investigation was made at the end of 1952.[18] The results impelled the Communists to launch a drive

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16. See comment of American editors of C.B., 136, pp. 3-4.

17. C.B., 273, p. 4.

18. See comment of American editors of C.B., 136, pp. 3-4.

596 for the thorough implementation of the Marriage
671 Law and intensive indoctrination of the people in its principles. The movement was restricted to Han Chinese areas where land reform had been completed.[19]

Summing up the result of the campaign before the Government Administrative Council on November 11, 1953, Liu Ching-fan reported satisfactory indoctrination of 80 to 90 per cent of the adults in 15 per cent of the nation's hsien and municipalities where land reform had been completed and, to a somewhat lesser degree, 60 to 70 per cent of the people in 60 per cent of similar local areas. Almost no progress was indicated in the remaining 25 per cent of the localities.[20] Assuming the population in these areas to be roughly equal, these figures would mean that on an over-all basis even partial success was claimed for only 48 to 55.5 per cent of the population subjected to the indoctrination process.

596 C. The Communists' Vague Picture of Success
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Unfortunately, we cannot precisely judge how successful the regime has been in implementing the Marriage Law nationally or regionally. Communist evaluations are too generalized to reveal a definite picture, and statistics released by the regime are sketchy and, when available, rarely provide a basis for significant comparison. Reports on the results of the 1952

19. C.B., 273, p. 1.
20. Ibid., p..3.

596 investigations of Marriage Law implementation
171 were evidently intended to illustrate the extremes
562 of backwardness and progress in family practices rather than to give a comprehensive picture of them. A spate of press accounts in January 1952 referred to conditions from good to bad found in political units of varying size throughout the country, but none of the accounts contained references to the Southwest Region. Evidently, the regime encountered more difficulties here than elsewhere. Last of the regions to fall to the Communists and to complete land reform, the Southwest was still reporting difficulties in expanding the Party organization in the region and complaining of the lack of education and soundness in existing cadres as late as January 1954.[21]

The Communist press announced in October 1951 that all areas in the Southwest Region had begun a check-up on Marriage Law implementation, but noted that one of the duties of the work teams involved in the task was to educate local cadres. The report also referred to a meeting of government organs in Sikang to correct the "erroneous ideas" of some cadres that to publish the Marriage Law "would cause confusion" in the central work of the Party.[22]

Some light was shed on the situation in the Southwest Region by a Communist article written in the fall of 1953. Referring to "the

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21. SCMP, 858, Supplement, vii-xii; 970, pp. 29-32.

22. Ibid., 198.

596 671 582 stubborn remnants of the old marriage system... still damaging the prosperity, security, and happiness of the people of New China," the article cited the example of the subdistrict of Chen-yu in Szechwan. According to the article, there had been no strong "progressive" influence in the area before "liberation," and the Marriage Law team found family relations little changed from the traditional pattern. To propagandaize and implement the new Marriage Law in the subdistrict, the team undertook the training of new cadres made up of village administrators, leaders of peasant women's associations, and members of the Communist Party and New Democratic Youth Corps. It soon turned out that "at least half [the new cadres] were themselves influenced by feudal ideas." Further troubles were encountered when an attempt at a panel discussion to illustrate the need for reform by soliciting personal experiences ended in failure. In carrying the movement to the people, the method of assembling individual families and encouraging wives to reveal abusive treatment by husbands and mothers-in-law had to be called off because the sessions only succeeded in developing quarrels.[23] This revelation of the resistance to family reorientation in the Southwest Region has no parallel insofar as is known, although similar problems were undoubtedly encountered outside the Southwest Region.

The latest report on the reorganization of family life in China was given in March 1955 by the Marriage Law Implementing Committee.

23. Fang Yen, "Making the Marriage Law Work," China Reconstructs, Peking, Sept.-Oct. 1953, pp. 32-33.

596 Couched in general terms, the announcement
• 67 gave no clear indication of the true situation in
582 the country or any one of its regions. For example, the committee reported on the prevalence of free marriages during the first quarter of 1954, stating that of the 402,025 applications for marriage registration in 562 hsien and municipalities of 15 provinces only 1.07 per cent were denied because the contemplated marriages had been arranged without the consent of the couples concerned.[24] No figures were released on the remaining, roughly three-quarters of the country's hsien and municipalities, nor was any indication given to show whether the figures cited were typical of the whole country, the only figures available, or figures selected for propaganda or other purposes. If the figures can be given credence, they indicate a remarkable advance over the situation existing two years earlier. After an investigation of Marriage Law implementation in 1952, a woman minister of justice, Shih Liang, reported that in only three of the country's 2,086 counties were families reformed "up to perfect Communist standards," and that in the East and Central-South regions freely contracted marriages and other reforms had gained no acceptance with the people.[25]

The Marriage Law Implementing Committee's report in March 1955 also included a summary of conditions "in certain advanced areas in Shansi and elsewhere." It is unlikely that any of the "advanced areas elsewhere" were

24. SCMP, 1002, p. 3.

25. China News Analysis, Hong Kong, No. 5, p. 2.

596 671 582 in the Southwest Region. Far more likely, the region would have been mentioned in reports on the areas "least progressive" in family reform, had the Communists cared to publicize such conditions in 1955. But the report on the "advanced areas" gives some indication of the best the Communists have been able to do in places where they have been long estabished. According to the commitee, family relationships were improved or improving in 90 to 95 per cent of the homes and "bad" in only 5 to 10 per cent. Of the larger group, 10 to 15 per cent were described as the "advanced modern type...with a definite degree of socialist consciousness, where democracy and harmony obtain and members are united for production." The commitee announcement added that in 80 per cent of these homes women were no longer oppressed, beaten, or scolded, but "remnants of the patriarchal system and the conception of the rights of the husband" still existed to varying degrees.[26]

C. Reorientation of Family Reform

596 183 No rapid change in traditional family attitudes and practices in the Southwest Region is likely to have occurred to date. The all-out effort to revolutionize the Chinese family in the spring of 1953 has not been repeated. Soon after the 1953 campaign, decreasing emphasis was given by the regime to quick implementation of the new Marriage Law. Family reform was made a continuing part of the everyday work of the various

26. SCMP, 1002, p. 3.

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III. CRIMINAL CODES AND LAWS GOVERNING COUNTERREVOLUTIONARY ACTIVITIES

671 Although the establishment of a criminal and civil code is assigned to the Commission on Codification under the Government Administration Council, to date no report has been made by the committee. However, decrees and orders concerning counter-revolutionary activities have been issued by all levels of government.

A. Criminal Code

671 694 A decree promulgated by the chairman of the People's Republic of China in December 1954 explained the procedure for arrest and detention.[29] As a rule, arrests must first be approved by the People's court or by the People's procuratorates, and before making an arrest, public security agencies must obtain a warrant from the People's Procuratorate. However, there are circumstances under which immediate arrests can be made. These exceptions, in fact, grant the security agencies more power than the decree would suggest. For example, persons who are unable to establish their place of residence

29. People's Daily, Dec. 21, 1954, p. 1.

671 are subject to immediate arrest. It is true
694 that certain provisions in the decree guarantee each individual the right to demand a warrant, a minimum period of detention, and an early and rapid trial; nevertheless, at least two factors minimize the value to the individual of these provisions -- warrants for arrests are not always obtained by security agencies, and exceptions to these provisions are allowed to facilitate the arrest of counterrevolutionaries.

687 Apart from those decrees relating to the punishment of counterrevolutionaries, discussed below, other orders that may be singled out for discussion include the decree on the safekeeping of confidential information[30] and that implemented in cases involving the violation of laws concerning national currency.[31] Since "confidential material" is loosely defined by the Communists, the "unlawful disclosure" of any information whatsoever can be regarded as a crime. "Confidential information" includes not only national security and military matters in the usual sense, but also any data relating to economic and financial affairs, transportation conditions, and matters of a

30. Yangtze Daily, June 11, 1951, p. 1.
31. Ibid., April 28, 1951, p. 4.